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Request
For
Continued Examination (RCE)
TransmittalAddress to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	09/437,726
Filing Date	November 9, 1999
First Named Inventor	Willem P.C. Stemmer
Art Unit	1634
Examiner Name	Bradley L. Sisson
Attorney Docket Number	0122.310US

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

- i. ☐ Consider the arguments in the Appeal Brief or Rely Brief previously filed on _____
- ii. ☐ Other _____

- b. ☒ Enclosed

- i. ☒ Amendment/Reply
- ii. ☐ Affidavit(s)/ Declaration(s)
- iii. ☒ Information Disclosure Statement (IDS)
- iv. ☒ Other Petition for Extension of Time; Fee

Transmittal; and Return Postcard

2. **Miscellaneous**

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other _____

3. **Fees**

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

- The Director is hereby authorized to charge the following fees, or credit any overpayments, to

- a. ☒ Deposit Account No. 50 - 0990

- i. ☒ RCE fee required under 37 CFR 1.17(e)
- ii. ☒ Extension of time fee (37 CFR 1.136 and 1.17)
- iii. ☐ Other _____

- b. ☐ Check in the amount of \$ _____ enclosed

- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)	<u>Sharon M. Fujita</u>	Registration No. (Attorney/Agent)	<u>38,459</u>
Signature	<u>Sharon M. Fujita</u>	Date	<u>February 27, 2004</u>

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print/Type)	<u>Diane D. Dunn</u>	Date	<u>February 27, 2004</u>
Signature	<u>Diane D. Dunn</u>		

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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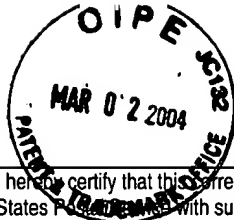
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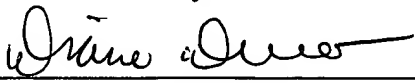
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February 27, 2004

By: 
Diane D. Dunn

Attorney Docket No: 0122.310

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Willem P. C. Stemmer *et al.*

Application No.: 09/437,726

Filed: November 9, 1999

For: Methods for Obtaining a Polynucleotide
Encoding a Polypeptide Having Rubisco
Activity

Examiner: Bradley L. Sisson

Art Unit: 1634

**AMENDMENT WITH REQUEST
FOR CONTINUED EXAMINATION**

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This submission is being made in connection with a Request for Continued Examination. Applicants respectfully request consideration of the following amendments and remarks, which address the issues raised in the final Office Action dated January 30, 2003. Further to the filing of a Notice of Appeal, the due date for filing an Appeal Brief was September 30, 2003. A petition for a five-month extension of time authorizing the Commissioner to charge the requisite fee pursuant 37 C.F.R. § 1.17 to Deposit Account No. 50-0990 is enclosed. The petition thus effectively extends the period for response from September 30, 2003 to February 29, 2004. The foregoing Amendment and Request for Continued Examination are being submitted in lieu of an Appeal Brief. The

requirements for an RCE submission are met in that prosecution is closed pursuant to 37 C.F.R. § 1.114. The RCE transmittal submitted herewith authorizes the Commissioner to charge the RCE fee to Deposit Account No. 50-0990.

In connection with the Request for Continued Examination, Applicants respectfully request withdrawal of the finality of the aforementioned Office Action and consideration of the following amendments and remarks:

Amendments to the Specification begin on page 3 of this submission.

Amendments to the Claims are reflected in the listing of claims which begins on page 5 of this submission.

Remarks begin on page 7 of this submission.